

EXHIBIT C

From: Srinivasan, Jay P. <JSrinivasan@gibsondunn.com>

Sent: Friday, January 22, 2021 7:07 PM

To: Wes Earnhardt <WEarnhardt@cravath.com>

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Subject: RE: Epic v. Apple -- Third-Party Depositions

External (jsrinivasan@gibsondunn.com)

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Wes,

I don't think 5-7 depositions work without some relief from the 2/15 deadline. So let's definitely discuss that, with whomever needs to be involved in that discussion. That said, I think we can agree that even with the existing deadline, 2-3 deposition would be appropriate so it's okay to reach out to third parties but the coordination order dictates a collaborative approach here so you shouldn't agree to dates that aren't cleared with Apple. As you know, on the Apple side, different counsel are involved for the different third parties so lots of schedules are implicated here.

Thanks,
Jay

Jay P. Srinivasan

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Sent: Friday, January 22, 2021 2:48 PM

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Subject: RE: Epic v. Apple -- Third-Party Depositions

[External Email]

Jay,

Thanks for the call and email. Epic agrees with each bullet on your list, except the last. We need to stick to the February 15 deadline. (I can arrange a call with others on the Epic team if you'd like to discuss.)

We also agreed that Epic can cross examine at the deposition any third-party witness that Apple subpoenas, and vice-versa, with the time allotment to be agreed upon on a witness-by-witness basis. You suggested a "4 then 3" or "5 then 2" split, with the noticing party going first, which makes sense in the abstract, but we will need to work out the specific hours allotment for particular third-parties once they've been noticed.

Finally, as I previewed, now that we've agreed that each side will have 5-7 third-party depositions, we'll send over notices for our first batch soon.

Wes

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To: "Wes Earnhardt" <WEarnhardt@cravath.com>
Cc: "Samuel Stuckey" <ssuckey@cravath.com>, "Doren, Richard J." <RDoren@gibsondunn.com>, "Swanson, Daniel G." <DSwanson@gibsondunn.com>, "Perry, Mark A." <MPerry@gibsondunn.com>, "Moyé, Veronica S." <VMoye@gibsondunn.com>, "Richman, Cynthia" <CRichman@gibsondunn.com>, "Dettmer, Ethan" <EDettmer@gibsondunn.com>, "Lazarus, Eli M." <ELazarus@gibsondunn.com>, "Phillips, Harry" <HPhillips2@gibsondunn.com>, "psacripanti@mwe.com" <psacripanti@mwe.com>, "erodd@mwe.com" <erodd@mwe.com>, "jcalandra@mwe.com" <jcalandra@mwe.com>, "mslowery@mwe.com" <mslowery@mwe.com>, "ncastle@mwe.com" <ncastle@mwe.com>, "apletcher@omm.com" <apletcher@omm.com>, "deberhart@omm.com" <deberhart@omm.com>, "ezarabozo@omm.com" <ezarabozo@omm.com>, "eschlom@omm.com" <eschlom@omm.com>, "krobson@omm.com" <krobson@omm.com>, "sschaeffer@omm.com" <sschaeffer@omm.com>, "steve@hbsslaw.com" <steve@hbsslaw.com>, "robl@hbsslaw.com" <robl@hbsslaw.com>, "shanas@hbsslaw.com" <shanas@hbsslaw.com>, "bens@hbsslaw.com" <bens@hbsslaw.com>, "tedw@hbsslaw.com" <tedw@hbsslaw.com>, "benh@hbsslaw.com" <benh@hbsslaw.com>, "rifkin@whafh.com" <rifkin@whafh.com>, "byrd@whafh.com" <byrd@whafh.com>, "guiney@whafh.com" <guiney@whafh.com>, "dejong@whafh.com" <dejong@whafh.com>, "karen.lent@skadden.com" <karen.lent@skadden.com>, "Epic Mobile Apps" <epic-mobileapps@cravath.com>, "vlavely@cravath.com" <vlavely@cravath.com>, "paul.riehle@faegredrinker.com" <paul.riehle@faegredrinker.com>, "matthew.adler@faegredrinker.com" <matthew.adler@faegredrinker.com>, "bdiessel@wiggin.com" <bdiessel@wiggin.com>, "Hoff, Robert" <RHoff@wiggin.com>
Date: 01/22/2021 04:36 PM
Subject: RE: Epic v. Apple -- Third-Party Depositions

Plaintiffs' counsel,

Thanks for the call this morning. In trying to condense our call to the key elements; we came up with the following:

- For purposes of the Epic trial, each side should get 5-7 third-party depositions
- The parties might agree on a few more depositions for the sole purpose of laying foundation for documents and to account for any document sponsorship requirement by Judge Gonzalez Rogers
- Third parties desired solely by class plaintiffs will be deferred to later, and we'll have to work out an arrangement for how we deal with third parties that overlap between Epic and class
- For the Epic trial, the parties will agree to a rule where any previously un-deposed third-party witness who appears on a party's witness list will be subject to deposition by the other side before trial
- We will consider extending the deposition cut-off date to beyond Feb 15 for third parties (and for parties as well)

There are details to be worked out but please confirm that the above comports with your understanding. Otherwise, let us know where you disagree or if we left something out.

Thanks,

Jay

Jay P. Srinivasan

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From: Wes Earnhardt <WEarnhardt@cravath.com>

Sent: Thursday, January 21, 2021 4:31 PM

To: Srinivasan, Jay P. <JSrinivasan@gibsondunn.com>

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bdiessel@wiggins.com; Hoff, Robert <RHoff@wiggins.com>

Subject: Re: Epic v. Apple -- Third-Party Depositions

[External Email]

Jay,

To be clear, the 70 hours would be divided among three sets of plaintiffs (Epic, Consumer Class and Developer Class), and would include questioning in response to any third parties that Apple subpoenas. That is imminently reasonable given that Apple has subpoenaed 13 third parties for documents.

Is Apple taking the position that it will notice no third party depositions? If not, how many third party depositions does Apple intend to notice, and how many hours does Apple believe it will need? We have been upfront about what Plaintiffs require. We have heard nothing from Apple. Please be prepared to explain your position on these issues tomorrow.

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On Jan 21, 2021, at 7:20 PM, Srinivasan, Jay P. <Srinivasan@gibsondunn.com> wrote:

Sam,

We look forward to discussing tomorrow morning. Although Epic has provided (and repeated) a proposal for third-party depositions, it has never explained why it requires 70 hours of third-party depositions—which could presumably include dozens of deponents. This certainly is not the “limited, targeted” discovery that Epic promised to the Court. While the parties have carved out third-party depositions in our discussions of party-deposition limits, we have never discussed specifics (your colleagues will confirm this). In the context of party depositions, Judge Hixson required Plaintiffs to justify—first to Apple and then to him—the basis for requesting more than 10 depositions. To obtain relief from the Federal Rules, Plaintiffs were required to identify the specific Apple witnesses it sought to depose and why it sought them. Given that Plaintiffs have already exceeded the deposition limit, at least the same showing will be required if they seek Court approval of third-party depositions. Plaintiffs have not provided any details at all beyond a proposed hours limit that is unreasonable on its face. Please be prepared to discuss that on tomorrow’s call. In the meantime, we want to make absolutely clear that you do not have Apple’s consent to take or notice any further depositions as would be required by Rule 30; hopefully, the parties can agree to something reasonable.

Best,
Jay

Jay P. Srinivasan

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From: Samuel Stuckey <ssuckey@cravath.com>

Sent: Thursday, January 21, 2021 2:00 PM

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Subject: RE: Epic v. Apple -- Third-Party Depositions

[External Email]

Jay,

We're happy to meet and confer. And we look forward to finally receiving a counterproposal from Apple. 12:30pm ET / 9:30am PT works for us and, if it also works for Class Plaintiffs, we will be happy to send an invite and dial in.

The rest of your email is off base. The parties acknowledged weeks ago, in the context of discussing party depositions, that there will be third-party depositions in this case. The only open issue is what limits (if any) should be placed on such depositions. To be proactive, we reached out ten days ago with our proposed limits. You, however, refused to engage until (i) unrelated issues concerning party depositions were settled and (ii) we clarified that our proposal was on behalf of all plaintiffs, which we have now done. Given this background, particularly our agreement that there will be third-party depositions, there is no reason to delay giving notice to third parties.

Nor is there any "issue with the schedule". Epic is committed to completing third-party depositions on the current schedule. We expect Apple to do the same. (Indeed, Apple could have issued third-party deposition subpoenas at any time, and Epic would not have objected.) Epic, for its part, will issue third-party deposition subpoenas this week, which is more than enough time to complete what needs to be done.

We look forward to speaking tomorrow.

Regards,
Sam

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From: Srinivasan, Jay P. <JSrinivasan@gibsondunn.com>

Sent: Thursday, January 21, 2021 1:47 PM

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Subject: RE: Epic v. Apple -- Third-Party Depositions

Sam,

As you know, a party cannot take more than 10 depositions in a lawsuit without leave of Court or by stipulation of all parties. The parties have not so stipulated, and so Plaintiffs are not allowed to notice/serve any third-party depositions until they receive Apple's consent or a Court order. Please do not do so until that happens. We asked Plaintiffs for a coordinated proposal ten days ago so any issue with the schedule was created by your side, not Apple. Apple is evaluating your proposal and will be in a position to respond with a counterproposal tomorrow. Please let us know when you are available to discuss tomorrow between 12:30-03:00 ET/9:30-12:00 PT.

Thanks,

Jay

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Sent: Wednesday, January 20, 2021 5:47 PM

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Robert <RHoff@wiggin.com>

Subject: RE: Epic v. Apple -- Third-Party Depositions

[External Email]

Apple Counsel,

Following up on our last meet and confer, Epic and Class Plaintiffs make the following coordinated proposal for third-party depositions:

1. Plaintiffs (Epic, Consumers and Developers) may collectively conduct up to 70 hours of on-the-record third-party deposition questioning;
2. Apple may conduct up to 70 hours of on-the-record third-party deposition questioning; and
3. Any third party (or employee of that third party) that appears on a trial witness list but which had not previously been deposed must be made available for deposition prior to trial (and these depositions do not count against the above hours totals).

In light of the fact that we need to give each third party reasonable notice and the impending discovery deadline, we plan to start noticing and serving third-party deposition subpoenas this week.

Please let us know your position on this proposal as soon as possible. We are available to meet and confer as necessary.

Thanks,
Sam

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Sent: Wednesday, January 13, 2021 1:15 AM

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Subject: RE: Epic v. Apple -- Third-Party Depositions

Sam,

As we mentioned, we would like to resolve the Epic deposition issue before we move to third parties. So we don't think it makes sense to proceed with the 2:30 PT call. We are planning to attend the 3:30 PT call and depending on how it goes, we would be happy to discuss third-party depositions afterwards.

Jay

Jay P. Srinivasan

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From: Samuel Stuckey <ssuckey@cravath.com>

Sent: Tuesday, January 12, 2021 6:46 PM

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Robert <RHoff@wiggin.com>

Subject: RE: Epic v. Apple -- Third-Party Depositions

[External Email]

Jay and Betty,

We understand that a 3:30PST/6:30EST call has been proposed for tomorrow to discuss party depositions. Per our discussion yesterday, we are confirming that we would like to proceed with the scheduled meet and confer at 2:30PST/5:30EST to discuss third-party depositions.

Thanks,

Sam

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From: Srinivasan, Jay P. <JSrinivasan@gibsondunn.com>

Sent: Monday, January 11, 2021 12:06 PM

To: Samuel Stuckey <ssuckey@cravath.com>; Boutrous Jr., Theodore J. <TBoutrous@gibsondunn.com>; Doren, Richard J. <RDoren@gibsondunn.com>; Swanson, Daniel G. <DSwanson@gibsondunn.com>; Perry, Mark A.

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Cc: Epic Mobile Apps <epic-mobileapps@cravath.com>; Wes Earnhardt <WEarnhardt@cravath.com>; Vanessa Lavelly <VLavelly@cravath.com>; paul.riehle@faegredrinker.com; matthew.adler@faegredrinker.com; bdiessel@wiggin.com; Hoff, Robert <RHoff@wiggin.com>

Subject: RE: Epic v. Apple -- Third-Party Depositions

Sam, we can make that time work. Thanks.

Jay P. Srinivasan

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From: Samuel Stuckey <ssuckey@cravath.com>

Sent: Monday, January 11, 2021 8:50 AM

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Subject: RE: Epic v. Apple -- Third-Party Depositions

[External Email]

Apple Counsel:

Following up on the below, please advise of your availability this afternoon to meet and confer regarding third-party depositions. We are available at 5pm EST/2pm PST.

Regards,
Sam

Samuel A. Stuckey
Cravath, Swaine & Moore LLP
825 Eighth Avenue
New York, NY 10019
(212) 474-1302

From: Samuel Stuckey

Sent: Friday, January 8, 2021 9:13 PM

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Subject: Epic v. Apple -- Third-Party Depositions

Apple Counsel:

Please advise of your availability on Monday to meet and confer regarding third-party depositions. We are available 4-6pm EST / 1-3pm PST.

Regards,
Sam

Samuel A. Stuckey
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